

London County

COPY

STATE OF TENNESSEE
CIVIL SUMMONS

page 1 of 1

Case Number

2021-CV-129

FELICIA JOHNSON vs. MARK SMITH and K-VA-T FOOD STORES, INC.

240 BIRMINGHAM ROAD, CEDAR BLUFF, VIRGINIA 24609-8557

Served on:
MARK SMITH

You are hereby summoned to defend a civil action filed against you in Circuit Court London County, Tennessee. Your defense must be made within thirty (30) days from the date this summons is served upon you. You are directed to file your defense with the clerk of the court and send a copy to the plaintiff's attorney at the address listed below. If you fail to defend this action by the below date, judgment by default may be rendered against you for the relief sought in the complaint.

Issued:

December 16, 2021

Clerk / Deputy Clerk

Attorney for Plaintiff:

Allen M. Gressett, Esq. / SCHWED, ADAMS, SOBEL & MCGINLEY
88 Union Avenue, Suite 1100, Memphis, TN 38103

NOTICE OF PERSONAL PROPERTY EXEMPTION

TO THE DEFENDANT(S): Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption as well as a homestead exemption from execution or seizure to satisfy a judgment. The amount of the homestead exemption depends upon your age and the other factors which are listed in TCA § 26-2-301. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for your self and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer. Please state file number on list.

Mail list to _____, Clerk, _____ County

CERTIFICATION (IF APPLICABLE)

I, _____, Clerk of _____ County do certify this to be a true and correct copy of the original summons issued in this case.

Date: _____

Clerk / Deputy Clerk

OFFICER'S RETURN: Please execute this summons and make your return within ninety (90) days of issuance as provided by law.

I certify that I have served this summons together with the complaint as follows: _____

Date: _____

By: _____
Officer, Title

RETURN ON SERVICE OF SUMMONS BY

☐ prepaid, by registered return receipt mail or certified return
☐ stated case to the defendant

EXHIBIT

tabbies

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and return that on _____, I sent

_____ of the summons and a copy of the complaint in the

I received the return receipt, which had been signed

The return receipt is attached to this original summons to be filed by the Court Clerk

IN THE CIRCUIT COURT OF LOUDON COUNTY, TENNESSEE
FOR THE NINTH JUDICIAL DISTRICT AT LOUDON

FELICIA JOHNSON,

Plaintiff,

vs.

MARK SMITH and K-VA-T FOOD
STORES, INC.,

Defendants.

Cause No.: 2021-CV-129

Div.:

Jury Demanded

TIME 2:29 ^{FILED} AM/PM

DEC 16 2021

STEVE HARRELSON
CIRCUIT COURT CLERK
Spencer D.C.

COMPLAINT

COMES NOW the Plaintiff, Felicia Johnson, and would show unto the Court as follows:

I.

That your Plaintiff is a resident citizen of Fulton County, Georgia; that your Defendant, Mark Smith, is assumed to be a citizen and resident of Tazewell County, Virginia; that your Defendant, K-VA-T Food Stores, Inc., is a for-profit corporation licensed and authorized to do business in the State of Tennessee.

II.

That your Defendant, Mark Smith, was at all relevant times an agent or employee of the Defendant, K-VA-T Food Stores, Inc., was acting in the course and scope of his agency or employment and for the benefit of K-VA-T Food Stores, Inc., and was operating a vehicle owned by K-VA-T Food Stores, Inc. Therefore, K-VA-T Food Stores, Inc. is liable to Plaintiff for the negligent acts committed by Mark Smith pursuant to the doctrine of *respondeat superior* and for any negligence of its own.

III.

That on or about December 26, 2020, Plaintiff, Felicia Johnson, while a passenger in a 2019 Honda Accord, was southbound on Interstate 75 in Loudon, Loudon County, Tennessee. That Defendant, Mark Smith, while operating a 2020 Volvo Truck Tractor, Virginia License 23573PZ, assumed to be owned by and registered in the name of K-VA-T Food Stores, Inc., was southbound on Interstate 75 in Loudon, Loudon County, Tennessee, when without warning, Defendant did negligently and carelessly fail to maintain proper control of his vehicle and struck the rear of the vehicle in which Plaintiff was traveling. That the impact was so great it threw your Plaintiff, Felicia Johnson, about in the vehicle, thereby causing her to sustain serious injury.

IV.

Plaintiff charges and alleges that the Defendant, Mark Smith, was guilty of the following acts of common law negligence, each and every one of which was a direct and proximate cause of the Plaintiff's resulting damages, to wit:

- a. In failing to devote full time and attention to the operation of his vehicle;
- b. In failing to maintain a proper outlook;
- c. In driving his vehicle too fast under the conditions prevailing;
- d. In failing to use that degree of care and caution as was required under the existing circumstances and conditions for the safety of themselves and others properly upon the aforementioned street;
- e. In failing to control the movement, momentum for direction of travel of his vehicle, or to turn or guide the same, as it was his duty to do so, as to avoid causing a collision to occur, then and thereby injuring Plaintiff.

V.

Plaintiff further charges and alleges that at the time of the accident in question, the following Statutes of the State of Tennessee were in full force and effect and were violated by Defendant, Mark Smith:

55-8-124 Following too closely.

- (a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon and the condition of the highway.

55-10-205 Reckless driving.

- (a) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property commits reckless driving.

55-8-136 Drivers to exercise due care.

- (b) Notwithstanding any speed limit or zone in effect at the time, or right-of-way rules that may be applicable, every driver of a vehicle shall exercise due care by operating the vehicle at a safe speed, by maintaining a safe lookout, by keeping the vehicle under proper control and by devoting full time and attention to operating the vehicle, under the existing circumstances as necessary in order to be able to see and to avoid endangering life, limb or property and to see and avoid colliding with any other vehicle or person, or any road sign, guard rail or any fixed object either legally using or legally parked or legally placed, upon any roadway, within or beside the roadway right-of-way including, but not limited to, any adjacent sidewalk, bicycle lane, shoulder or berm.

VI.

As a direct and proximate result of the negligence of the Defendants, and resulting collision, the Plaintiff, Felicia Johnson, suffered serious, painful and permanent injuries, and mental anguish; Plaintiff incurred doctor, medical, hospital and other bills in an effort to cure said injuries and will in the future incur such expenses; Plaintiff's capacity for pleasure, business, work and the enjoyment of life have been impaired.

**WHEREFORE, PREMISES CONSIDERED, PLAINTIFF RESPECTFULLY
PRAYS:**

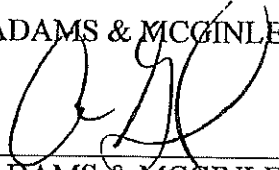
1. That proper process issue against the Defendants requiring them to plead and answer.
2. That Plaintiff, Felicia Johnson, be awarded compensatory damages in the amount of ONE HUNDRED FIFTY THOUSAND and 00/100 (\$150,000.00) DOLLARS.
3. That the Plaintiff be granted whatever other relief, general or specific, this Court deems equitable and just.
4. Plaintiff demands a Jury to try these issues when joined.

Respectfully submitted this 15 day of December, 2021.

By: 

Allen Gressett, Esq. (#29187)
Schwed, Adams & McGinley, P.A.
88 Union Center
88 Union Avenue
11th Floor, Suite 1100
Memphis, Tennessee 38103
Telephone: (901) 313-3411
Facsimile: (901) 577-1400

SCHWED, ADAMS & MCGINLEY, P.A. is surety for the court costs of this cause.



SCHWED, ADAMS & MCGINLEY, P.A.